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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,629	09/18/2003	Gholam Peyman	PMAN / 24	9232

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EXAMINER

FAY, ZOHREH A

ART UNIT PAPER NUMBER

1618

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,629	PEYMAN, GHOLAM	
	Examiner	Art Unit	
	Zohreh A. Fay	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 31-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Claims 1-30 are presented for examination.

The response to the restriction requirement of October 11, 2005 has been received and entered.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9, 11-14 and 18 are rejected under 35 U.S.C. 102 (b) as being anticipated by Schachar (U.S. Patent 4,620,979). Schachar teaches the use of vitamin C in combination with a stabilizing agent, such as glutathione at the claimed concentrations. See claims 1-8 and the abstract.

Claims 4, 6, 8, 20 are rejected under 35 U.S.C. 102 (b) as being anticipated by Ghosal (U.S. Patent 6,235,721). Ghosal teaches the use of vitamin C in combination with Emblica officinalis fruit extract and propylene glycol in a pharmaceutical formulation. See example 20 and column 2, lines 1-12.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5, 6, 7, 10, 15, 16, 17, 19, and 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schachar (U.S. Patent 4,620,979) and Petrus (U.S. Patent 6,573,299).

Schachar teaches the use of vitamin C in combination with glutathione in an ophthalmic formulation. See claims 1-8 and the abstract. The above reference differs from the claimed invention in the use of cysteine as a stabilizing agent and the additives such as silicone and polymers. Petrus teaches that the cysteine derivatives have been previously used in combination with ascorbic acid and glutathione. See column 9, lines 51-55. The above reference also teaches the use of silicone and selenium as additives in ophthalmic formulations as old and well known. See column 14, lines 20-35 and table 1. It would have been obvious for a person skilled in the art to use a cysteine as a stabilizer and silicone and polymers as additive with the composition of the primary reference, considering that Petrus teaches the use of a cysteine in combination with ascorbic acid as old. Petrus also teaches the use of additives such as silicone and selenium in ophthalmic formulations as old.

One skilled in the art would have been motivated to combine the teachings of the above references, since one relates to the use of ascorbic acid in combination with the antioxidant glutathione in a pharmaceutical formulations, and the other relates to the use of ascorbic acid derivatives in combination with cysteine derivatives in an ophthalmic composition with the claimed additives such as silicone and selenium. The above references in combination make clear that ascorbic acid has been previously

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used with the claimed anti-oxidants. The determination of optimum proportion or amounts is considered to be within the skill of the artisan. The use of the conventional ophthalmic additive is also considered to be within the skill of the artisan. Applicant has presented no evidence to establish the unexpected or unobvious nature of the claimed invention, and as such, the above claims are properly rejected under 35 U.S.C. 103.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh A. Fay whose telephone number is (571) 272-0573. The examiner can normally be reached on Monday to Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Z.F

